

2011 DRAFTING REQUEST

Bill

Received: **12/15/2011**

Received By: **emueller**

Wanted: **As time permits**

Companion to LRB:

For: **Peter Barca (608) 266-5504**

By/Representing: **Matt Egerer**

May Contact:

Drafter: **emueller**

Subject: **Transportation - traffic laws**

Addl. Drafters:

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **Rep.Barca@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit use of hand-held phone while driving.

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	emueller 01/12/2012	kfollett 01/31/2012	jfrantze 01/31/2012	_____	ggodwin 01/31/2012		
/1	emueller 02/28/2012	kfollett 02/29/2012	jfrantze 02/29/2012	_____	sbasford 02/29/2012	lparisi 02/29/2012	

FE Sent For:

none

<END>

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1/2	emueller	1/11/12		1/31			
1/1	EMM 1/12/12	1/31					

FE Sent For:

<END>

Mueller, Eric

From: Egerer, Matt
Sent: Wednesday, January 11, 2012 11:50 AM
To: Mueller, Eric
Subject: RE: Hand-Held Cell Phone Ban

Use mobile phones.

Matt Egerer
Office of Representative Peter Barca
Assembly Democratic Leader
608.266.5504

From: Mueller, Eric
Sent: Wednesday, January 11, 2012 11:31 AM
To: Egerer, Matt
Subject: RE: Hand-Held Cell Phone Ban

I believe a cellular telephone is a mobile phone that uses a particular technology. Mobile phone would be a more general term.

Eric Mueller
Attorney, Legislative Reference Bureau
Phone: (608)261-7032
eric.mueller@legis.wisconsin.gov

From: Egerer, Matt
Sent: Wednesday, January 11, 2012 11:09 AM
To: Mueller, Eric
Subject: RE: Hand-Held Cell Phone Ban

Yes to exemptions for 1) emergency vehicle operators or 2) integrated emergency and vehicle operations devices, and reporting an emergency.

I'm unclear what the difference is between a hand held phone in a car, a cellular phone, and a mobile phone.

We do want people to be able to use the speaker phone function on their cell phone. They should be prohibited from holding it up to their ear with their hands.

Matt Egerer
Office of Representative Peter Barca
Assembly Democratic Leader
608.266.5504

From: Mueller, Eric
Sent: Wednesday, January 04, 2012 3:34 PM
To: Egerer, Matt
Subject: RE: Hand-Held Cell Phone Ban

Matt,

Do you want to provide the other exceptions that were provided for text messaging while driving? Specifically, 1) emergency vehicle operators or 2) integrated emergency and vehicle operations devices. Also, do you want to provide an exception for reporting an emergency?

Should the prohibition apply to any hand-held phone or just cellular phones? For example, recent proposed federal regulations have used the term "hand-held mobile telephone."

Eric Mueller
Attorney, Legislative Reference Bureau
Phone: (608)261-7032
eric.mueller@legis.wisconsin.gov

From: Egerer, Matt
Sent: Thursday, December 15, 2011 1:23 PM
To: Mueller, Eric
Subject: Hand-Held Cell Phone Ban

Eric,

We would like to build on the texting while driving ban from the previous and to get a draft that would ban the use of a hand-held cell phone while driving.

Other states seem to go both ways on this, but for the initial draft we would like to still allow a person to answer the phone for an incoming call and to dial a phone number on the handheld device, but they would need to use a speakerphone function, Bluetooth, or other hands-free device to engage in their conversation. In keeping with my understanding of current inattentive driving law, it should also not ban the use of a GPS system that is in a handheld cell phone.

It should also not ban the handheld use of a 2 way ham radio.

The penalty should be the same as texting while driving/inattentive driving.

Matt Egerer
Office of Representative Peter Barca
Assembly Democratic Leader
608.266.5504



(D Note)
State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3644/P1
EVM:...

Tues
(cont)

(RMR)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1. 1/12/12

(gea)

- 1 **AN ACT ...; relating to:** use of hand-held mobile telephones while driving and
2 providing a penalty.

Analysis by the Legislative Reference Bureau

X Current law prohibits inattentive driving of a motor vehicle, which means that a driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle. Current law also specifically prohibits, with certain exceptions, a person from driving while composing or sending an electronic text message. Persons who violate either of these prohibitions may be required to forfeit not less than \$20 nor more than \$400.

X
X
X
X This bill prohibits a person from driving while using a hand-held mobile telephone. The prohibition does not apply to any of the following: 1) operators of authorized emergency vehicles; 2) use of certain emergency alert or vehicle monitoring devices; 3) use of global positioning system devices; 4) certain amateur radio operators; 5) certain use of hands-free telephones; and 6) use in response to an emergency. Persons who violate this prohibition are subject to the same penalty as for inattentive driving or driving while composing or sending an electronic text message.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 **SECTION 1.** 346.89 (4) of the statutes is created to read:

1 346.89 (4)(a) No person may drive, as defined in s. 343.305 (1) (b), a motor
2 vehicle while using a hand-held mobile telephone.

3 (b) This subsection does not apply to any of the following:

4 1. The operator of an authorized emergency vehicle.

5 2. The use of any device whose primary function is transmitting and receiving
6 emergency alert messages and messages related to the operation of the vehicle or an
7 accessory that is integrated into the electrical system of a vehicle.

8 3. The use of a global positioning system device, including a global positioning
9 system device that is integrated into a mobile telephone.

10 4. An amateur radio operator who holds a valid amateur radio operator's
11 license issued by the federal communications commission when he or she is using
12 dedicated amateur radio 2-way radio communication equipment and observing
13 proper amateur radio operating procedures.

14 5. The use of a voice-operated or hands-free mobile telephone if the driver of
15 the motor vehicle does not use his or her hands to operate the telephone, except to
16 activate or deactivate a feature or function of the telephone, including dialing a
17 telephone number.

18 6. The use of a mobile telephone in response to an emergency.

19 SECTION 2. 346.95 (2) of the statutes is amended to read:

20 346.95 (2) Any person violating s. 346.89 (1) or (3) (a), or (4) (a) or 346.94 (2),
21 (4), or (7) may be required to forfeit not less than \$20 nor more than \$400.

History: 1971 c. 278; 1973 c. 182, 314, 336; 1975 c. 297, 320; 1977 c. 68; 1983 a. 56, 175, 538; 1989 a. 335 s. 89; 1991 a. 83; 1993 a. 260, 455; 1995 a. 194, 373, 420; 1999 a. 109; 2001 a. 90; 2003 a. 192, 297, 327; 2005 a. 250; 2009 a. 22, 157, 220, 311.

22 SECTION 3. Effective date.

3 (END)

① Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3644/P1dn

EVM: *ef*

Date

ATTN: Matt Egerer

X Please review the attached draft carefully to ensure that it is consistent with your intent. The draft is generally structured the same as s. 346.89 (3), stats., including the use of much of the same language. Please note, I have included a delayed effective date (the same as was used for last year's AB496). Please let me know if you want this removed or changed.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3644/P1dn
EVM:kjf:jf

January 31, 2012

ATTN: Matt Egerer

Please review the attached draft carefully to ensure that it is consistent with your intent. The draft is generally structured the same as s. 346.89 (3), stats., including the use of much of the same language. Please note, I have included a delayed effective date (the same as was used for last year's AB 496). Please let me know if you want this removed or changed.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

Mueller, Eric

From: Egerer, Matt

Sent: Tuesday, February 28, 2012 9:56 AM

To: Mueller, Eric

Subject: RE: Draft review: LRB 11-3644/P1 Topic: Prohibit use of hand-held phone while driving.

Can I have this in draft/1 form?

Matt Egerer

Office of Representative Peter Barca

Assembly Democratic Leader

608.266.5504

From: LRB.Legal

Sent: Tuesday, January 31, 2012 12:00 PM

To: Rep.Barca

Subject: Draft review: LRB 11-3644/P1 Topic: Prohibit use of hand-held phone while driving.

Following is the PDF version of draft LRB 11-3644/P1 and drafter's note.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3644/P1
EVM:kjf:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RML

No changes

In 2/28/12

Soon

Regen

- 1 AN ACT *to amend* 346.95 (2); and *to create* 346.89 (4) of the statutes; **relating**
2 **to:** use of hand-held mobile telephones while driving and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits inattentive driving of a motor vehicle, which means that a driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle. Current law also specifically prohibits, with certain exceptions, a person from driving while composing or sending an electronic text message. Persons who violate either of these prohibitions may be required to forfeit not less than \$20 nor more than \$400.

This bill prohibits a person from driving while using a hand-held mobile telephone. The prohibition does not apply to any of the following: 1) operators of authorized emergency vehicles; 2) use of certain emergency alert or vehicle monitoring devices; 3) use of global positioning system devices; 4) certain amateur radio operators; 5) certain use of hands-free telephones; and 6) use in response to an emergency. Persons who violate this prohibition are subject to the same penalty as for inattentive driving or driving while composing or sending an electronic text message.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 346.89 (4) of the statutes is created to read:

346.89 **(4)** (a) No person may drive, as defined in s. 343.305 (1) (b), a motor vehicle while using a hand-held mobile telephone.

(b) This subsection does not apply to any of the following:

1. The operator of an authorized emergency vehicle.

2. The use of any device whose primary function is transmitting and receiving emergency alert messages and messages related to the operation of the vehicle or an accessory that is integrated into the electrical system of a vehicle.

3. The use of a global positioning system device, including a global positioning system device that is integrated into a mobile telephone.

4. An amateur radio operator who holds a valid amateur radio operator's license issued by the federal communications commission when he or she is using dedicated amateur radio 2-way radio communication equipment and observing proper amateur radio operating procedures.

5. The use of a voice-operated or hands-free mobile telephone if the driver of the motor vehicle does not use his or her hands to operate the telephone, except to activate or deactivate a feature or function of the telephone, including dialing a telephone number.

6. The use of a mobile telephone in response to an emergency.

SECTION 2. 346.95 (2) of the statutes is amended to read:

346.95 (2) Any person violating s. 346.89 (1) ~~or, (3) (a), or (4) (a)~~ or 346.94 (2), (4), or (7) may be required to forfeit not less than \$20 nor more than \$400.

SECTION 3. Effective date.

(1) This act takes effect on the first day of the 7th month beginning after publication.

(END)

Parisi, Lori

From: Egerer, Matt
Sent: Wednesday, February 29, 2012 4:42 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-3644/1 Topic: Prohibit use of hand-held phone while driving.

Rush please.

Please Jacket LRB 11-3644/1 for the ASSEMBLY.